

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES BRIAN LEWIS,

Defendant-Appellant.

UNPUBLISHED

September 20, 2007

No. 272531

Muskegon Circuit Court

LC No. 05-051329-FH

Before: Bandstra, P.J., and Talbot and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions of possession of marijuana, MCL 333.7403(2)(d), felon in possession of a firearm, MCL 750.224f, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant, as an habitual offender, second offense, MCL 769.10, to 5 months in jail to 2 years' imprisonment for the possession of marijuana conviction, 5 months in jail to 7.5 years' imprisonment for the felon-in-possession conviction, and 2 years' imprisonment for each of the two felony-firearm convictions. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On the morning of February 1, 2005, defendant's wife, Michelle Lewis, telephoned "911" and reported that she overdosed on cocaine. When police officers arrived at the Lewis' home a few minutes later, both Michelle and defendant appeared to be "under the influence" of a controlled substance and there were bloodstains on defendant's shirt. The officers subsequently entered the house to search for people requiring medical attention. There were no people inside the house. The officers did, however, observe a partially used marijuana cigarette and a shooter used to ingest cocaine. Later, the officers obtained a search warrant and thoroughly searched the house. The search produced additional illegal drugs, drug paraphernalia, and firearms. Before trial, defendant moved to suppress the evidence seized from the house, arguing that the evidence was obtained as a result of an unreasonable, warrantless search. Following a suppression hearing, the trial court denied defendant's motion to suppress, finding that the officers properly searched the house under the emergency aid exception to the warrant requirement.

Defendant argues on appeal that the trial court erred in denying his motion to suppress the evidence seized from his house. We review a trial court's factual findings on a motion to suppress for clear error, but, "[t]o the extent that a trial court's ruling . . . involves an interpretation of the law or the application of a constitutional standard to uncontested facts, our

review is de novo.” *People v Harrington*, 258 Mich App 703, 705-706; 672 NW2d 344 (2003). The right against unreasonable searches and seizures is guaranteed by both the United States and Michigan Constitutions. US Const, Am IV; Const 1963, art 1, § 11. Generally, warrantless searches are unreasonable. *People v Borchard-Ruhland*, 460 Mich 278, 293; 597 NW2d 1 (1999). But, an emergency aid search is a recognized exception to the warrant requirement. *People v Davis*, 442 Mich 1, 25; 497 NW2d 910 (1993). The emergency aid exception allows officers to enter a dwelling without a warrant and without probable cause when they reasonably believe, based on specific and articulable facts, that a person within the dwelling is in need of immediate aid. *Id.* at 25-26. The entry must be limited to the justification for it, and the officer may not do more than is reasonably necessary to determine whether someone is in need of assistance, and to provide the assistance. *Id.* at 26.

At the suppression hearing, the officers testified that they believed there were people inside defendant’s house in need of emergency aid based on the fact that Michelle overdosed on cocaine, her appearance indicated that she “partied” with people all night, defendant had several, relatively fresh bloodstains on his shirt, and neither defendant nor Michelle had any visible injuries accounting for the bloodstains. While Michelle and defendant stated that there were no people inside the house and that defendant bled on his own shirt, the officers did not find their statements to be trustworthy, considering that they were “high” and there was no apparent explanation for the bloodstains. The officers’ testimonies further indicated that they conducted only a brief search of the areas inside the house where a person’s body might be located. Based on these facts, we agree with the trial court that the officers reasonably believed that there was an injured person or persons inside defendant’s house and that the officers properly searched the house pursuant to the emergency aid exception to the warrant requirement. *Davis, supra* at 25-26.

Defendant argues that the emergency aid exception is inapplicable to this case because the officers were not motivated to enter his house by the need to render aid. According to defendant, the police “concocted the idea” that there might be people in need of emergency aid in order to enter the house and seize evidence of criminal activity. We disagree. At the suppression hearing, the officers indicated that they entered defendant’s house in order to search for injured persons and the trial court concluded that the officers provided credible testimony. We defer to the trial court’s credibility determination. *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999). Moreover, while we have held that officers must be *primarily* motivated by the perceived need to render aid, officers need not be completely unmotivated by the desire to solve a crime. *Davis, supra* at 14, 19. Further, the United States Supreme Court recently held that an officer’s subjective motivation in entering a home is irrelevant, “as long as the circumstances, viewed *objectively*, justify [the] action.” *Brigham City v Stuart*, __ US __; 126 S Ct 1943, 1948; 164 L Ed 2d 650 (2006) (citations omitted). The officers had an objectively reasonable basis for believing that there were people inside defendant’s house in need of emergency aid and the officers entered the house based on that belief. The fact that the officers may also have been motivated to enter the house to obtain evidence of a crime is irrelevant. *Id.*

Affirmed.

/s/ Richard A. Bandstra
/s/ Michael J. Talbot
/s/ Karen M. Fort Hood